

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

LAVONIA MILLER,)	C.A. NO. 2:22-cv-03408-DCN
)	
PLAINTIFF,)	
)	
vs.)	NOTICE OF REMOVAL
)	
DOLLAR TREE STORES, INC.,)	
)	
DEFENDANT.)	
_____)	

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Dollar Trees Stores, Inc. (referred to herein as “Dollar Tree”) hereby removes the above-caption lawsuit from the Court of Common Pleas for Colleton County, South Carolina, in which it is currently pending, to the United States District Court for the District of South Carolina, Charleston Division, As grounds for removal of this case, Dollar Tree states as follows:

Background

1. On September 1, 2022, Plaintiff Lavonia Miller filed a Complaint in Case No. 2022-CP-15-00747 in the Court of Common Pleas, Fourteenth Judicial Circuit, County of Colleton, South Carolina (“State Court Action”), seeking actual, compensatory, nominal, incidental, consequential, and punitive damages, among other things, for negligence and gross negligence against Dollar Tree.

2. At this time, Dollar Tree is uncertain as to whether Plaintiff has served Dollar Tree with the State Court Action. Dollar Tree, however, received notice of the State Court Action on or about September 13, 2022.

3. Venue is proper 28 U.S.C. §§ 1391(b)(2) and 1441(a) and Local Rule 3.01 in this Court, i.e., in the United States District Court for the District of South Carolina, Charleston

Division. It is the district court of the United States for the district and division embracing the place where the State Court Action is pending. Further, a substantial part of the events and omissions giving rise to the State Party Action occurred within Colleton County. (See Exhibit A, Compl. ¶ 3.)

Basis for Removal

4. Plaintiff is a citizen and resident of Beaufort County, South Carolina. (See Exhibit A, Compl. ¶ 1.)

5. Dollar Tree is a corporation incorporated under the laws of, and maintains its principal place of business in, the State of Virginia. (See Exhibit A, Compl. ¶ 2.)

6. Accordingly, complete diversity exists amongst the parties since Plaintiff is a citizen of the State of South Carolina and Defendant is a citizen of the State of Virginia.

7. This case is removable pursuant to the general removal statute, 28 U.S.C. § 1441(a)–(b).

8. Pursuant to 28 U.S.C. § 1332(a)(1), the district courts have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States.

9. On the face of the Complaint, Plaintiff seeks a judgment be entered in favor of Plaintiff against Dollar Tree for unspecified actual, compensatory, nominal, incidental, consequential and punitive damages including but not limited to costs and attorney's fees incurred by Plaintiff in the prosecution of this action, and for such other costs and damages as are proven. (See Exhibit A, Compl. pgs. 3-4.)

10. The amount in controversy is based on the judgment that would be entered if the plaintiff prevailed on the merits of the case as it stands at the time of removal. St. Paul Mercury

Indem. Co. v. Red Cab Co., 303 U.S. 283, 58 S.Ct. 586, 82 L.Ed. 845 (1938). When a specific amount is not specified in the complaint, as is the case here, “[t]he object which is sought to be accomplished by the plaintiff may be looked to in determining the value of the matter in controversy.” Cannon v. United Ins. Co., 352 F.Supp. 1212, 1217 (D.S.C. 1973). Plaintiff seeks actual and punitive damages. Such claims establish that the value of the matter in dispute exceeds \$75,000 making this case properly removable.

11. By filing this Notice of Removal, Dollar Tree does not waive any available defenses.

12. The instant Notice of Removal is being filed within 30-days of the filing of the original summons and complaint against Dollar Tree. 28 U.S.C. § 1446(b)(1).

13. Counsel for Dollar Tree certifies that he has, on this date, given written notice of this filing to Plaintiff’s attorney and has filed a copy of this Notice with the Clerk of the Colleton County Court of Common Pleas, in accordance with 28 U.S.C. § 1446(d) and Local Rule 83.IV.01.

14. True and correct copies of all process, pleadings, and other documents previously filed in the State Court Action are attached to this Notice of Removal as Exhibit A, as required by 28 U.S.C. § 1446(a).

15. This notice is signed pursuant to Fed. R. Civ. Pro. Rule 11, in accordance with 28 U.S.C. § 1446(a).

[Signature page for Notice of Removal, State Case No. 2022-CP-15-00747]

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Dated: October 3, 2022